

Congress of the United States
Washington, DC 20515

495

May 14, 2014

The Honorable Thomas E. Wheeler
Chairman
Federal Communications Commission
445 12th St, S.W.
Washington, D.C. 20554

Dear Chairman Wheeler:

We have been following with interest your ongoing proceeding on how best to re-implement the “net neutrality” rules. Like you, we believe it is critical that we maintain a free and open Internet, where consumers are not blocked from accessing the websites of their choice and providers do not use their control over the last mile to stifle competition.

As you consider how best to move forward to achieve these goals, we write to share our concerns with reports that the Commission may be considering achieving these goals by reclassifying broadband Internet access service as a “Title II” common carrier service. In the years that broadband service has been subjected to relatively little regulation, investment and deployment have flourished and broadband competition has increased, all to the benefit of consumers and the American economy.

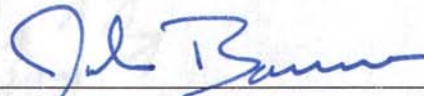
While we still have further to go to ensure that the benefits of broadband reach all Americans, we are concerned that opening the door to subjecting broadband service to a wide array of regulatory burdens and restrictions, including imposing Title II, might halt this progress. We respectfully urge you to consider the effect that regressing to a Title II approach might have on private companies’ ability to attract capital and their continued incentives to invest and innovate, as well as the potentially negative impact on job creation that might result from any reduction in funding or investment. We share your goals of keeping the Internet open to all.

Thank you for your work on this very important issue.

Sincerely,



Gene Green
Member of Congress



John Barrow
Member of Congress



Bobby L. Rush
Member of Congress



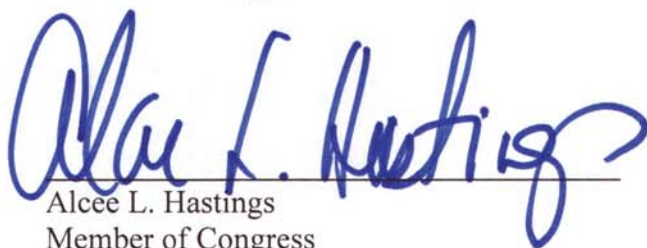
G.K. Butterfield
Member of Congress



Corrine Brown
Member of Congress



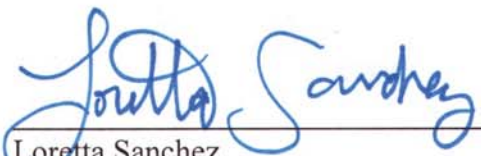
Joaquin Castro
Member of Congress



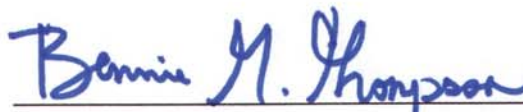
Alcee L. Hastings
Member of Congress



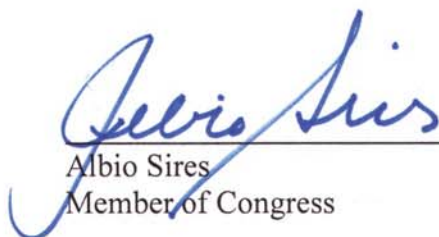
William Owens
Member of Congress



Loretta Sanchez
Member of Congress



Bennie G. Thompson
Member of Congress



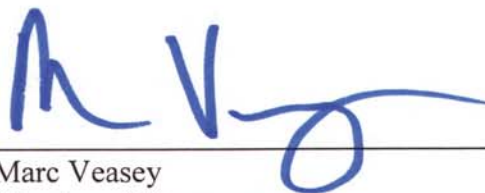
Albio Sires
Member of Congress



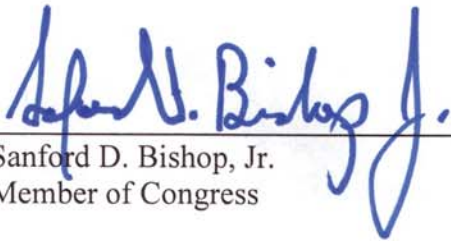
Nick J. Rahall
Member of Congress



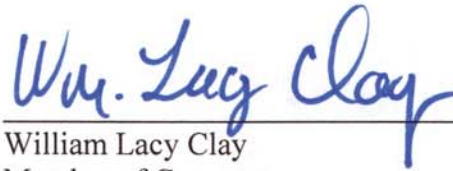
Kurt Schrader
Member of Congress



Marc Veasey
Member of Congress



Sanford D. Bishop, Jr.
Member of Congress



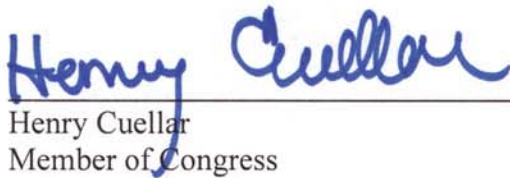
William Lacy Clay
Member of Congress



Scott Peters
Member of Congress



Gregory W. Meeks
Member of Congress



Henry Cuellar
Member of Congress



David Scott
Member of Congress



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

June 30, 2014

The Honorable Gene Green
U.S. House of Representatives
2470 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Green:

Thank you for writing to express your concerns regarding the need to reinstate rules to preserve a free and Open Internet for all Americans, and the legal basis upon which the Commission relies in proposing to reinstate its rules. I share the sense of urgency expressed by many on this matter and moved with dispatch to initiate a proceeding to consider new open Internet rules to replace those that were vacated by the D.C. Circuit Court of Appeals in the *Verizon* case. As you know, the *Notice of Proposed Rulemaking* ("*Notice*") adopted by the Commission in May 2014 begins that process. Therein, we ask a number of questions about the rules we need to adopt, as well as the appropriate legal foundation for such rules. Your letter touches on some of the most important issues presented in the *Notice*, and I will ensure that it is included in the record of the proceeding and considered as part of the Commission's review.

The Commission has struggled for over a decade with how best to protect and promote an open Internet. While there has been bipartisan consensus, starting under the Bush Administration with Chairman Powell, on the importance of an open Internet to economic growth, investment, and innovation, we find ourselves today faced with the worst case scenario: we have no Open Internet rules in place to stop broadband providers from limiting Internet openness. The *status quo* is unacceptable. The Commission has already found, and the court has agreed, that broadband providers have economic incentives and technological tools to engage in behavior that can limit Internet openness and harm consumers and competition. As such, the Commission must craft meaningful rules to protect the open Internet, and it must do so promptly. I can assure you that I will utilize the best tools available to me to ensure the Commission adopts effective and resilient open Internet rules. Unless and until the Commission adopts new rules, broadband providers will be free to block, degrade, or otherwise disadvantage innovative services on the Internet without threat of sanction by the FCC.

With respect to the legal foundation of the rules, I believe that the Section 706 framework set forth by the court provides us with the tools we need to adopt and implement robust and enforceable Open Internet rules. Nevertheless, the Commission also is seriously considering the use of Title II of the Communications Act as a basis for legal authority. The *Notice* explains that both Section 706 and Title II are viable solutions to the authority issue, and seeks comment on the benefits of each approach, as well as the benefits of one approach over the other, to ensuring that the Internet remains an open platform for innovation and expression. Additionally, the *Notice* seeks comment on other proposals suggesting the Commission could apply both Section

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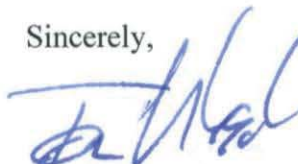
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The *Notice* includes a number of proposals designed to empower consumers and small businesses who may find themselves subject to harmful behavior by a broadband provider. For example, the Court of Appeals did uphold our existing transparency rule, and the *Notice* proposes to strengthen that rule to require that networks disclose *any* practices that could change a consumer's or a content provider's relationship with the network. The *Notice* proposes the creation of an ombudsperson to serve as a watchdog and advocate for start-ups, small businesses and consumers. And the *Notice* seeks comment on how to ensure that all parties, and especially small businesses and start-ups, have effective access to the Commission's dispute resolution and enforcement processes.

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Again, I appreciate your deep interest in this matter and look forward to continued engagement with you as the proceeding moves forward.

Sincerely,

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Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

June 30, 2014

The Honorable John Barrow
U.S. House of Representatives
2202 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Barrow:

Thank you for writing to express your concerns regarding the need to reinstate rules to preserve a free and Open Internet for all Americans, and the legal basis upon which the Commission relies in proposing to reinstate its rules. I share the sense of urgency expressed by many on this matter and moved with dispatch to initiate a proceeding to consider new open Internet rules to replace those that were vacated by the D.C. Circuit Court of Appeals in the *Verizon* case. As you know, the *Notice of Proposed Rulemaking* ("*Notice*") adopted by the Commission in May 2014 begins that process. Therein, we ask a number of questions about the rules we need to adopt, as well as the appropriate legal foundation for such rules. Your letter touches on some of the most important issues presented in the *Notice*, and I will ensure that it is included in the record of the proceeding and considered as part of the Commission's review.

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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

June 30, 2014

The Honorable Sanford Bishop
U.S. House of Representatives
2429 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Bishop:

Thank you for writing to express your concerns regarding the need to reinstate rules to preserve a free and Open Internet for all Americans, and the legal basis upon which the Commission relies in proposing to reinstate its rules. I share the sense of urgency expressed by many on this matter and moved with dispatch to initiate a proceeding to consider new open Internet rules to replace those that were vacated by the D.C. Circuit Court of Appeals in the *Verizon* case. As you know, the *Notice of Proposed Rulemaking* ("Notice") adopted by the Commission in May 2014 begins that process. Therein, we ask a number of questions about the rules we need to adopt, as well as the appropriate legal foundation for such rules. Your letter touches on some of the most important issues presented in the *Notice*, and I will ensure that it is included in the record of the proceeding and considered as part of the Commission's review.

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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

June 30, 2014

The Honorable Corrine Brown
U.S. House of Representatives
2111 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman Brown:

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June 30, 2014

The Honorable G.K. Butterfield
U.S. House of Representatives
2305 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Butterfield:

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

June 30, 2014

The Honorable Joaquin Castro
U.S. House of Representatives
212 Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Castro:

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With respect to the substance of the rules, the proposals and questions in the *Notice* are designed to elicit a record that will give us a foundation to adopt strong, enforceable rules to protect the open Internet and prevent broadband providers from harming consumers or competition. I am especially sensitive to concerns about paid prioritization arrangements, and the potential such arrangements have for creating an Internet that is fast for a few, and slow for everyone else. Let me be crystal clear: there must only be one Internet. It must be fast, robust and open for everyone. The *Notice* addresses this issue head-on, even asking if paid prioritization should be banned outright. It also proposes clear rules of the road and aggressive enforcement to prevent unfair treatment of consumers, edge providers and innovators. Small companies and startups must be able to reach consumers with their innovative products and services, and they must be protected against harmful conduct by broadband providers.

The *Notice* includes a number of proposals designed to empower consumers and small businesses who may find themselves subject to harmful behavior by a broadband provider. For example, the Court of Appeals did uphold our existing transparency rule, and the *Notice* proposes to strengthen that rule to require that networks disclose *any* practices that could change a consumer's or a content provider's relationship with the network. The *Notice* proposes the creation of an ombudsperson to serve as a watchdog and advocate for start-ups, small businesses and consumers. And the *Notice* seeks comment on how to ensure that all parties, and especially small businesses and start-ups, have effective access to the Commission's dispute resolution and enforcement processes.

This *Notice* is the first step in the process, and I look forward to comments from all interested stakeholders, including members of the general public, as we develop a fulsome record on the many questions raised in the *Notice*. To that end, in an effort to maximize public participation in this proceeding, we have established an Open Internet email address – openinternet@fcc.gov – to ensure that Americans who may not otherwise have the opportunity to participate in an FCC proceeding can make their voices heard. In addition, to ensure sufficient opportunity for broad public comment, we have provided a lengthy comment and reply period through September 10, 2014, that will allow everyone an opportunity to participate.

Again, I appreciate your deep interest in this matter and look forward to continued engagement with you as the proceeding moves forward.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tom Wheeler", is positioned above the printed name.

Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

June 30, 2014

The Honorable William Lacy Clay
U.S. House of Representatives
2418 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Clay:

Thank you for writing to express your concerns regarding the need to reinstate rules to preserve a free and Open Internet for all Americans, and the legal basis upon which the Commission relies in proposing to reinstate its rules. I share the sense of urgency expressed by many on this matter and moved with dispatch to initiate a proceeding to consider new open Internet rules to replace those that were vacated by the D.C. Circuit Court of Appeals in the *Verizon* case. As you know, the *Notice of Proposed Rulemaking* ("Notice") adopted by the Commission in May 2014 begins that process. Therein, we ask a number of questions about the rules we need to adopt, as well as the appropriate legal foundation for such rules. Your letter touches on some of the most important issues presented in the *Notice*, and I will ensure that it is included in the record of the proceeding and considered as part of the Commission's review.

The Commission has struggled for over a decade with how best to protect and promote an open Internet. While there has been bipartisan consensus, starting under the Bush Administration with Chairman Powell, on the importance of an open Internet to economic growth, investment, and innovation, we find ourselves today faced with the worst case scenario: we have no Open Internet rules in place to stop broadband providers from limiting Internet openness. The *status quo* is unacceptable. The Commission has already found, and the court has agreed, that broadband providers have economic incentives and technological tools to engage in behavior that can limit Internet openness and harm consumers and competition. As such, the Commission must craft meaningful rules to protect the open Internet, and it must do so promptly. I can assure you that I will utilize the best tools available to me to ensure the Commission adopts effective and resilient open Internet rules. Unless and until the Commission adopts new rules, broadband providers will be free to block, degrade, or otherwise disadvantage innovative services on the Internet without threat of sanction by the FCC.

With respect to the legal foundation of the rules, I believe that the Section 706 framework set forth by the court provides us with the tools we need to adopt and implement robust and enforceable Open Internet rules. Nevertheless, the Commission also is seriously considering the use of Title II of the Communications Act as a basis for legal authority. The *Notice* explains that both Section 706 and Title II are viable solutions to the authority issue, and seeks comment on the benefits of each approach, as well as the benefits of one approach over the other, to ensuring that the Internet remains an open platform for innovation and expression. Additionally, the *Notice* seeks comment on other proposals suggesting the Commission could apply both Section

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

June 30, 2014

The Honorable Henry Cuellar
U.S. House of Representatives
2431 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Cuellar:

Thank you for writing to express your concerns regarding the need to reinstate rules to preserve a free and Open Internet for all Americans, and the legal basis upon which the Commission relies in proposing to reinstate its rules. I share the sense of urgency expressed by many on this matter and moved with dispatch to initiate a proceeding to consider new open Internet rules to replace those that were vacated by the D.C. Circuit Court of Appeals in the *Verizon* case. As you know, the *Notice of Proposed Rulemaking* ("Notice") adopted by the Commission in May 2014 begins that process. Therein, we ask a number of questions about the rules we need to adopt, as well as the appropriate legal foundation for such rules. Your letter touches on some of the most important issues presented in the *Notice*, and I will ensure that it is included in the record of the proceeding and considered as part of the Commission's review.

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Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

June 30, 2014

The Honorable Alcee Hastings
U.S. House of Representatives
2353 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Hastings:

Thank you for writing to express your concerns regarding the need to reinstate rules to preserve a free and Open Internet for all Americans, and the legal basis upon which the Commission relies in proposing to reinstate its rules. I share the sense of urgency expressed by many on this matter and moved with dispatch to initiate a proceeding to consider new open Internet rules to replace those that were vacated by the D.C. Circuit Court of Appeals in the *Verizon* case. As you know, the *Notice of Proposed Rulemaking* ("*Notice*") adopted by the Commission in May 2014 begins that process. Therein, we ask a number of questions about the rules we need to adopt, as well as the appropriate legal foundation for such rules. Your letter touches on some of the most important issues presented in the *Notice*, and I will ensure that it is included in the record of the proceeding and considered as part of the Commission's review.

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Tom Wheeler